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WILLIAMSPORT, PA

MAR 04 2002

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

MARY E. D'ANDREA, CLERK
Per KE Deputy Clerk

JOHN CHARLES KENNEY, :
Plaintiff :
 :
v. : Civil No. 1:CV-00-2143
 : (McClure, J.)
JAKE MENDEZ; : (Blewitt, M.J.)
JESUS "JESSE" GONZALEZ; :
JAMES "JIMMY" SCARBOROUGH; and :
KELLY M. KEISER, :
Defendants :

**EXHIBIT TO DEFENDANTS' BRIEF IN SUPPORT OF THEIR
MOTION FOR JUDGMENT ON THE PLEADINGS**

MARTIN C. CARLSON
United States Attorney

JOSEPH J. TERZ
Assistant U.S. Attorney
MICHELE E. LINCALIS
Paralegal Specialist
316 Federal Building
240 West Third Street
Williamsport, PA 17703

Date: March 4, 2002

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,	:	CIVIL ACTION NO. 1:CV-00-2143
	:	
Plaintiff	:	(Judge Rambo)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
JAKE MENDEZ, Warden et al.,	:	
	:	
Defendants	:	

DECLARATION OF S. ALBERT-BLOSSER

I, S. Albert-Blosser, do declare and state as follows:

1. I am a Paralegal Specialist at the United States Department of Justice, Federal Bureau of Prisons (BOP), Federal Correctional Complex, Allenwood, Pennsylvania. I have been employed with the BOP since September 1997. I have worked as a Paralegal Specialist since April 2001. As a result of my position, I have access to Bureau of Prisons' files, including computer files maintained in the ordinary course of business on inmates incarcerated at FCC-Allenwood.
2. I have reviewed the Bivens complaint filed by the Plaintiff, inmate John Kenney, Federal Register Number 05238-041, in which he seeks compensatory damages for alleged injuries he incurred while allegedly being assaulted by staff.

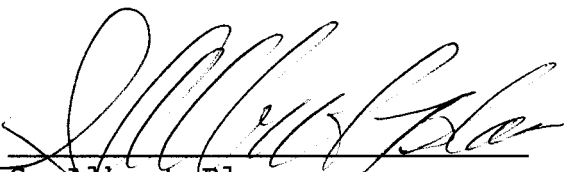
3. The Bureau of Prisons has established an administrative remedy procedure through which an inmate can seek formal review of any complaint regarding any aspect of his imprisonment, if less formal procedures do not resolve the matter, pursuant to 28 C.F.R. §542.13.
4. In order to exhaust appeals under the Administrative Remedy Procedure for inmates, an inmate must first raise his/her complaint to their unit team through an Informal Resolution Attempt. If the concern is not informally resolved, the inmate may file an appeal to the Warden of the institution where he is confined. He may then further appeal an adverse decision to the Regional Director and Central Office of the Federal Bureau of Prisons. See 28 C.F.R. § 542, et seq. No administrative remedy appeal is considered to have been finally exhausted until it has been denied by the Bureau of Prisons' Central Office.
5. In the ordinary course of business, computerized indexes of all formal administrative appeals filed by inmates are maintained by the Institution, Regional and Central Offices so that rapid verification may be made as to whether an inmate has exhausted administrative appeals on a particular issue. Informal resolution attempts are not retained by a computerized index.

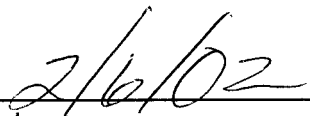
6. On February 6, 2002, I conducted a search of the records to determine whether or not the Plaintiff had exhausted available administrative remedies regarding the issue he raised in his Complaint. This review has revealed that the Plaintiff has not exhausted available administrative remedies for the issue that he has raised in his Complaint. I have attached the Sentry transaction sheet for the Plaintiff's administrative remedies as Attachment 1 to this Declaration.
7. Specifically, the Plaintiff has filed a total of 31 administrative remedies, three of which are related to an assault by a staff member.
8. Sentry computer records indicate that the Plaintiff filed a BP-9 (administrative remedy number 224261-F1) regarding an assault by a staff member, which was received on October 13, 2000. The record further indicates that this administrative remedy was rejected on the same date for being untimely. (See Attachment 1).
9. As the Sentry computer records indicate, the Plaintiff filed a second and third administrative remedy request, a BP-10 (administrative remedy number 224261-R1) and a BP-11 (administrative remedy number 224261-A1) in an attempt to

exhaust his administrative remedies regarding the issue in his Complaint. However, these two remedies were also rejected as being untimely.

10. In sum, the Plaintiff **has not exhausted** the administrative remedy process regarding the issue he raises in his Complaint.

I certify that the documents attached to this declaration are true and correct copies of documents kept in the ordinary course of business by the Federal Bureau of Prisons. I further declare under penalty of perjury in accordance with the provisions of 28 U.S.C. § 1746 that the above is accurate to the best of my knowledge and belief.


S. Albert-Blosser
Paralegal Specialist
FCC-Allenwood


Date

Kenney v. Mendez, et al.
1:CV-00-2143
Albert-Blosser Declaration

ATTACHMENT #1

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ALFLJ          *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL *          02-06-2002
PAGE 001 OF                                         13:45:40
      FUNCTION: L-P SCOPE: REG      EQ 05238-041      OUTPUT FORMAT: SINGLE
-----LIMITED TO SUBMISSIONS WHICH MATCH ALL LIMITATIONS KEYED BELOW-----
DT RCV: FROM _____ THRU _____ DT STS: FROM _____ THRU _____
DT STS: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT RDU
DT TDU: FROM _____ TO _____ DAYS BEFORE "OR" FROM _____ TO _____ DAYS AFTER DT TRT
STS/REAS: _____
SUBJECTS: _____
EXTENDED:  REMEDY LEVEL:  _ _ _      RECEIPT:  _ _ _      "OR" EXTENSION:  _ _ _
RCV OFC : EQ _____
TRACK:  DEPT: _____
      PERSON: _____
      TYPE: _____
EVNT FACL: EQ _____
RCV FACL.: EQ _____
RCV UN/LC: EQ _____
RCV QTR.: EQ _____
ORIG FACL: EQ _____
ORG UN/LC: EQ _____
ORIG QTR.: EQ _____

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ALFLJ *ADMINISTRATIVE REMEDY GENERALIZED RETRIEVAL * 02-06-2002
 PAGE 002 OF 002 * SINGLE LINE FORMAT * 13:45:40

REMEDY-ID	LAST NAME	REGISTER NUMBER	SUBJ1	SUBJ2	ORIG FACL	DATE RCV	STATUS	STATUS DATE
94392-F1	KENNEY	05238-041	33AM		LOM	09-25-1995	CLD	09-27-1995
94715-R1	KENNEY	05238-041	20DM		LOM	09-25-1995	REJ	09-28-1995
94392-R1	KENNEY	05238-041	33AM		LOM	10-16-1995	CLD	11-01-1995
110268-F1	KENNEY	05238-041	33ZM		LOM	05-23-1996	CLD	06-05-1996
110268-R1	KENNEY	05238-041	33ZM		LOM	06-12-1996	CLD	06-17-1996
112015-R1	KENNEY	05238-041	21AM	10ZM	LOM	06-18-1996	REJ	06-18-1996
112836-F1	KENNEY	05238-041	21AM			06-30-1996	VOD	06-30-1996
112837-F1	KENNEY	05238-041	21AM		LOM	06-30-1996	CLG	07-15-1996
112970-F1	KENNEY	05238-041	21AM		LOM	07-01-1996	REJ	07-02-1996
110268-A1	KENNEY	05238-041	33ZM		LOM	07-01-1996	CLD	07-29-1996
120830-F1	KENNEY	05238-041	10CM		LOM	10-27-1996	CLD	11-01-1996
120830-R1	KENNEY	05238-041	10CM		LOM	11-12-1996	CLD	11-21-1996
120830-A1	KENNEY	05238-041	10CM		LOM	12-05-1996	CLD	12-19-1996
129365-F1	KENNEY	05238-041	13AM		LOM	03-04-1997	CLO	03-16-1997
144374-R1	KENNEY	05238-041	34ZM		LOM	10-14-1997	REJ	10-14-1997
177896-R1	KENNEY	05238-041	10ZM		ALP	01-21-1999	REJ	01-25-1999
178233-F1	KENNEY	05238-041	13HM		ALP	01-27-1999	CLD	02-04-1999
178233-R1	KENNEY	05238-041	13HM		ALP	02-18-1999	CLD	03-17-1999
178233-A1	KENNEY	05238-041	13HM		ALP	04-13-1999	REJ	04-13-1999
178233-A2	KENNEY	05238-041	13HM	34ZM	ALP	04-30-1999	CLD	06-23-1999
224261-F1	KENNEY	05238-041	34DS		ALP	10-13-2000	REJ	10-13-2000
224261-R1	KENNEY	05238-041	34DS		ALP	10-24-2000	REJ	10-25-2000
224261-A1	KENNEY	05238-041	34DS		ALP	11-13-2000	REJ	11-13-2000
232104-F1	KENNEY	05238-041	34BM		SPG	01-31-2001	CLO	02-09-2001
233400-F1	KENNEY	05238-041	13HM		SPG	02-21-2001	REJ	02-21-2001
233400-F2	KENNEY	05238-041	13HM		SPG	02-28-2001	CLD	03-15-2001
247494-F1	KENNEY	05238-041	10ZS		ALP	08-24-2001	CLD	09-05-2001
247494-R1	KENNEY	05238-041	10ZS		ALP	09-25-2001	CLD	10-24-2001
255802-F1	KENNEY	05238-041	34AS		ALP	12-12-2001	CLD	12-26-2001
247494-A1	KENNEY	05238-041	10ZS		ALP	01-16-2002	CLD	01-28-2002
258738-R1	KENNEY	05238-041	34ZS	22ZS	ALP	01-24-2002	REJ	01-25-2002

G0000 31 REMEDY SUBMISSION(S) SELECTED
 TRANSACTION SUCCESSFULLY COMPLETED

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

JOHN CHARLES KENNEY,	:	
Plaintiff	:	
	:	
v.	:	Civil No. 1:CV-00-2143
	:	(McClure, J.)
JAKE MENDEZ;	:	(Blewitt, M.J.)
JESUS "JESSE" GONZALEZ;	:	
JAMES "JIMMY" SCARBOROUGH; and	:	
KELLY M. KEISER,	:	
Defendants	:	

CERTIFICATE OF SERVICE

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Middle District of Pennsylvania and is a person of such age and discretion to be competent to serve papers.


That this 4th day of March 2002, she served a copy of the attached

EXHIBIT TO DEFENDANTS' BRIEF IN SUPPORT OF THEIR
MOTION FOR JUDGMENT ON THE PLEADINGS

by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and contents in the United States Mail at Williamsport, Pennsylvania.

ADDRESSEE:

John Charles Kenney
Reg. No. 05238-041
U.S. Penitentiary
P.O. Box 3000
White Deer, PA 17887


MICHELE E. LINCALIS
Paralegal Specialist